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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/785,024	02/25/2004	Jerry L. Blevins	A-7014.CIP	9026

7590 04/16/2009
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EXAMINER

MAYO, TARA L

ART UNIT	PAPER NUMBER
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3671

MAIL DATE	DELIVERY MODE
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04/16/2009

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/785,024

Applicant(s)

BLEVINS, JERRY L.

Examiner

TARA MAYO-PINNOCK

Art Unit

3671

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 21 November 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 6-11 and 13-16 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 6-11 and 13-16 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/S508)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 6 through 11 and 13 through 16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Blevins (U.S. Patent Publication No. 2001/0044965 A1) in view of Howell et al. (U.S. Patent No. 4,833,743 A) and Johansson (U.S. Patent No. 4,002,330 A).

Blevins '965 teaches all of the features of the claimed invention with the exceptions of a railing and two L-shaped arms.

Howell et al. '743, as best seen in Figures 1, 3 and 4, shows a bed attachment comprising a railing (22) and two L-shaped arms (10, 14 and 28, collectively), wherein each L-shaped arm has a first end (i.e., the end of element 28) connected to said railing and a second end connected to the bottom surface of a patient support surface (col. 2, lines 20 through 23), the L-shaped arm rotating about an axis substantially parallel to the side edges of the patient support (col. 2, lines 20 through 33), wherein the purpose of the attachment is to provide a stretcher with a raisable and lowerable rail assembly for protecting people, wherein the first end of the first section of the L-shaped arm is pivotally connected to the first end of the second section of the L-shaped arm, and wherein the first section of the L-shaped arm is substantially perpendicular to the second section of the L-shaped arm.

It would have been obvious to one having ordinary skill in the art of patient supports at the time of invention to modify the apparatus disclosed by Blevins '965 such that it would further include the railing and L-shaped arms taught by Howell et al. '743, since the modification would have merely required the addition of known elements in the common art of beds for their intended purposes and the artisan of ordinary skill would have had a reasonable expectation of success.

Blevins '743 and Howell et al. '743 fail to teach the L-shaped arms being pivotally connected to the patient support.

Johansson '330, as best seen in Figures 1 and 2, shows a patient support comprising a railing (11) attached to the patient support by two generally L-shaped arms (12), wherein each L-shaped arm is pivotally attached to the patient support (via element 22).

It would have been obvious to one having ordinary skill in the art of beds at the time of invention to further modify the device taught by the combination of Blevins '743 and Johansson '330 such that an end of each L-shaped arm would be pivotally attached to the patient support as taught by Johansson '330, since the modification would have merely required the addition of a known element (i.e., a pivotal connection) to perform as intended on a prior art device and the artisan of ordinary skill would have had a reasonable expectation of success.

Response to Arguments

3. Applicant's arguments with respect to the claims have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

4. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to TARA MAYO-PINNOCK whose telephone number is (571)272-6992. The examiner can normally be reached on Monday through Friday 8:30 AM to 5:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thomas B. Will can be reached on 571-272-6998. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/TARA MAYO-PINNOCK/
Primary Examiner, Art Unit 3671

tmp
13 April 2009